

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

1 Congress Street
Suite 1100 - SEL
Boston, MA 02114-2023

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OFFICE OF
REGIONAL HEARING CLERK

Steven C. Schlang
Enforcement Counsel
617-918-1773 (phone)
617-918-1809 (fax)

April 2, 2008

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 1
One Congress Street
Boston, Massachusetts 02114-2023

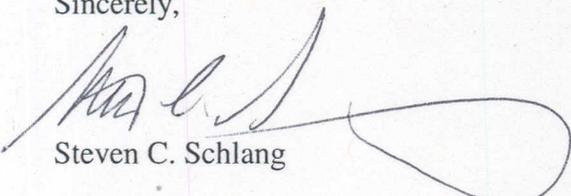
Re: In the Matter of: M.F. Reynolds, Inc.
Docket Number: TSCA-01-2008-0053

Dear Ms. Santiago,

Enclosed please find for filing an original and one copy of the Administrative Complaint and Notice for Opportunity of a Hearing regarding the above-matter.

Please do not hesitate to contact me should you have any questions regarding the enclosed.

Sincerely,


Steven C. Schlang

cc: David G. Dankens

In the Matter of: M.F. Reynolds, Inc.
Docket Number TSCA-01-2008-0053

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Administrative Complaint and Notice of Opportunity for a Hearing has been sent to the following persons on the date noted below:

Original and one copy
hand delivered:

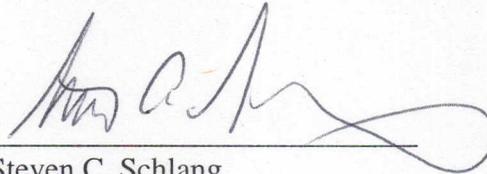
Wanda Rivera
Regional Hearing Clerk (RAA)
U.S. EPA, Region I
One Congress Street, Suite 1100
Boston, MA 02114-2023

Copy by Certified Mail-
Return Receipt Requested

David G. Dankens
President
M.F. Reynolds, Inc.
125 East Albion Street
Medford, MA 02155

Date: _____

4/12/2008



Steven C. Schlang
Office of Environmental Stewardship (SEL)
U.S. Environmental Protection Agency
Region I
One Congress Street, Suite 1100
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

In the Matter of:

M.F. Reynolds, Inc.
125 East Albion Street
Medford, MA, 02155

Respondent.

) Docket No. TSCA-01-2008-0053 9:45
)
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) ADMINISTRATIVE COMPLAINT
) AND NOTICE OF OPPORTUNITY
) FOR A HEARING
)
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I. STATEMENT OF AUTHORITY

1. This Administrative Complaint and Notice of Opportunity for a Hearing (“Complaint”) is filed pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), the federal regulations set forth at 40 C.F.R. Part 745, Subpart E, and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits*, 40 C.F.R. Part 22 (“Consolidated Rules of Practice”), a copy of which is enclosed with this Complaint. The Complainant is the Enforcement Manager, Office of Environmental Stewardship, United States Environmental Protection Agency, Region 1 (“EPA”). The Respondent in this action is M.F. Reynolds, Inc. (“M.F. Reynolds” or “Respondent”), a contractor.

II. NATURE OF THE ACTION

2. This Complaint alleges that M.F. Reynolds performed renovations for compensation in 121 pre-1978 dwelling units that disturbed more than 2 square feet of painted surface in each unit. These 121 renovations took place between June 2005 and June 2007.

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3. By issuing this Complaint, Complainant alleges violations by the Respondent of TSCA Section 406(b), 15 U.S.C. § 2686(b) and the federal regulations promulgated thereunder, set forth in 40 C.F.R. Part 745, Subpart E (“Pre-Renovation Rule”). Failure to comply with any regulatory requirement set forth in 40 C.F.R. Part 745, Subpart E, constitutes a violation of TSCA Section 409, 15 U.S.C. § 2689. Pursuant to TSCA Section 16, 15 U.S.C. § 2615, violations of TSCA Section 409, 15 U.S.C. § 2689, are subject to the assessment of civil and/or criminal penalties.

III. REGULATORY REQUIREMENTS

4. Pursuant to 40 C.F.R. § 745.82, federal regulations pertaining to renovation of residential property apply to all renovations of target housing performed for compensation except for renovation activities limited to the exceptions provided in 40 C.F.R. § 745.82(b): (a) minor repair and maintenance activities (including minor electrical work and plumbing) that disrupt 2 square feet or less of painted surface per component; (b) emergency renovation operations; or (c) renovations in target housing in which a written determination has been made by an inspector (certified pursuant to either Federal regulations at 40 C.F.R. § 745.226 or a State or Tribal certification program authorized pursuant to 40 C.F.R. § 745.324) that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight, where the renovator has obtained a copy of the determination.

5. The Pre-Renovation Rule “information distribution requirements” applicable to

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renovations in dwelling units are set forth at 40 C.F.R. § 745.85(a)(1), which provides that a renovator shall, no more than 60 days before beginning renovation activities in any residential dwelling unit of target housing, provide the owner of the unit with an EPA lead hazard information pamphlet (“EPA Pamphlet”) developed under Section 406(a) of TSCA for use in complying with the Pre-Renovation Rule. Further, pursuant to 40 C.F.R. § 745.85(a)(2), if the owner of the target housing does not reside in the dwelling unit, the renovator, shall: (i) obtain, from the adult occupant, a written acknowledgment that the occupant has received the EPA pamphlet; or (ii) obtain a certificate of mailing at least 7 days prior to the renovation.

6. The Pre-Renovation Rule sets forth additional requirements as to the form and content of the “written acknowledgments” that a renovator is obligated to obtain pursuant to 40 C.F.R. §§ 745.85(a)(1)(i) and (a)(2)(i). These additional requirements are set forth at 40 C.F.R. § 745.85(c).

7. Pursuant to 40 C.F.R. § 745.87, failure or refusal to comply with any provision of the Pre-Renovation Rule is a violation of TSCA Section 409 (15 U.S.C. § 2689) and violators may be subject to civil and criminal sanctions pursuant to TSCA Section 16 (15 U.S.C. § 2615) for each violation.

IV. APPLICABLE DEFINITIONS

8. Pursuant to 40 C.F.R. § 745.83, the term “EPA pamphlet” means “the EPA pamphlet developed under Section 406(a) of TSCA for use in complying with this [Pre-Renovation Rule] and other rulemakings under Title IV of TSCA and the Residential Lead-Based

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Paint Hazard Reduction Act, or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose. This includes reproductions of the pamphlet when copied in full and without revision or deletion of material from the pamphlet (except for the addition or revision of State or local sources of information).” The EPA pamphlet is entitled “*Protect Your Family From Lead in Your Home*” (see, e.g., 40 C.F.R. § 745.107(a)(1)).

9. Pursuant to 40 C.F.R. § 745.83, the term “*renovation*” means “the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by this part (40 C.F.R. § 745.223). The term renovation includes (but is not limited to): the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface preparation activity (such as sanding, scraping, or other such activities that may generate paint dust)); the removal of large structures (e.g., walls, ceiling, large surface replastering, major re-plumbing); and window replacement.”

10. Pursuant to 40 C.F.R. § 745.83, the term “*renovator*” means “any person who performs for compensation a renovation.”

11. Pursuant to 40 C.F.R. § 745.83, the term *emergency renovation operations* means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

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12. Pursuant to TSCA Section 401(17), 15 U.S.C. § 2681(17), and 40 C.F.R. § 745.103, the term “*target housing*” means “any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.”

13. Pursuant to TSCA Section 401(14), 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103, the term “*residential dwelling*” means either “a single family dwelling, including attached structures such as porches and stoops,” or “a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.”

14. Pursuant to 40 C.F.R. § 745.103, the term “*owner*” means “any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.”

V. GENERAL ALLEGATIONS

A. Respondent

15. M.F. Reynolds is, and at all times relevant to the violations alleged in this Complaint has been, a Massachusetts corporation with an office located at 125 East Albion Street, Medford, Massachusetts.

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16. M.F. Reynolds is a general contractor engaged in the home improvement business, including the performance of renovation and construction activities.

17. M.F. Reynolds is a "person" within the meaning of 40 C.F.R. § 745.83.

18. At all times relevant to the violations alleged herein, Respondent's President was David G. Dankens ("Dankens").

B. EPA Inspection and Target Housing

19. In June 2006, EPA sent Respondent information pertaining to the Pre-Renovation Rule and necessary steps to be taken to ensure compliance with the Rule. On August 13, 2007, EPA contacted M.F. Reynolds to schedule an inspection to determine Respondent's compliance with the Pre-Renovation Rule ("Compliance Inspection."). As part of the notice, EPA listed the documents and materials to be inspected.

20. On September 18 and September 26, 2007, an EPA inspector ("inspector") performed a Compliance Inspection at Respondent's office.

21. During the Compliance Inspection, Dankens told the inspector that approximately 95% of Respondent's projects consist of residential renovations or additions.

22. Dankens told the inspector that Respondent had not distributed the EPA pamphlet to the homeowners or occupants where renovations occurred.

23. As part of the Compliance Inspection, Dankens produced a list of Respondent's renovations for occupied, pre-1978 housing units ("Target Housing List"), from June 2005 to June 2007, as follows:

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<u>Address</u>			<u>Date of Renovation</u>
26 Phillips Street	Andover	MA	5/22/2007
524 Tremont Street	Boston	MA	1/27/2006
40 Hampshire Street	West Newton	MA	2/28/2006
157 Beaver Road	Weston	MA	11/8/2006
725 Harrison Avenue	Boston	MA	2/28/2007
303 Berkley Street	Boston	MA	10/12/2006
4 Summit Road	Weston	MA	5/29/2007
60 Beacon Street	Boston	MA	8/18/2005
135 Partridge Lane	Concord	MA	3/27/2006
66 Norfolk Road	Chestnut Hill	MA	8/31/2005
273 Otis Street	Newton	MA	6/27/2006
6 Ronaale Road	West Medford	MA	11/10/2006
26 Codman Road	Brookline	MA	8/29/2006
25 Valley Road	Chestnut Hill	MA	1/16/2007
52 High Street	Brookline	MA	6/1/2005
144 Oak Street	Weston	MA	8/17/2005
16 Buttonwood Lane	Weston	MA	9/21/2006
68 Beacon Street #5W	Boston	MA	8/21/2006
53 Sargent Crossway	Brookline	MA	10/11/2005
25 Brettwood Road	Belmont	MA	3/17/2006
7 Locust Road	Weston	MA	5/31/2006
23 Marlborough Street	Boston	MA	8/21/2006

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10 Bryon Street	Boston	MA	10/27/2005
46 Rockmont Street	Belmont	MA	6/1/2005
106 Clyde Street	Chestnut Hill	MA	6/1/2005
65 Suffolk Road	Chestnut Hill	MA	6/1/2005
148 Fost Street	Cambridge	MA	11/2/2005
10 Spooner Road	Brookline	MA	2/7/2006
8 Mercer Circle	Cambridge	MA	6/1/2005
50 Pigeon Hill Road	Weston	MA	9/29/2005
82 Lenox Street	West Newton	MA	12/23/2005
9 Brantwood Road	Arlington	MA	12/14/2005
180 Beacon Street #1E	Boston	MA	4/6/2006
65 Old England Road	Chestnut Hill	MA	12/23/2005
195 Meadowbrook Rd.	Weston	MA	2/28/2007
15 Louisburg Square	Boston	MA	3/17/2006
4 Stratford Way	Lincoln	MA	6/1/2005
80 Sears Road	Brookline	MA	11/7/2005
134 Collidge Hill Rd.	Cambridge	MA	8/15/2005
30 Irving Street	Boston	MA	7/31/2006
1 Channing Road	Dedham	MA	11/7/2005
140 Dudley Street	Brookline	MA	11/7/2005
13 Hancock Street	Boston	MA	5/22/2007
27 Sears Road	Wayland	MA	10/25/2006
225 Kenrick Road	Newton	MA	12/23/2005

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4 Willow Street	Weston	MA	8/31/2005
128 Allerton Street	Newton	MA	2/16/2006
46 Rutland Square	Boston	MA	8/1/2005
51 Dutton Road	Sudbury	MA	12/23/2005
21 Cedar Road	Brookline	MA	9/28/2005
107 Pembroke Street	Boston	MA	10/12/2006
69 Monmouth Street	Brookline	MA	12/27/2005
30 Hancock Street	Boston	MA	8/29/2005
96 Nonantum Street	Newton	MA	10/13/2006
210 Ridgeway Road	Weston	MA	1/11/2006
9 Smith Hill Road	Lincoln	MA	11/2/2005
125 Brookline Street	Needham	MA	11/9/2005
1 Charles River Sq.	Boston	MA	6/1/2005
1150 Canton Avenue	Milton	MA	8/1/2005
17 The Mall	East Sandwich	MA	8/24/2006
104 Revere Street	Boston	MA	9/29/2005
19 Louisburg Square	Boston	MA	6/1/2005
274 Otis Street	Newton	MA	11/14/2005
59 River Street	Boston	MA	7/28/2006
120 Sargent Road	Brookline	MA	3/28/2006
234 Middlesex Road	Chestnut Hill	MA	12/15/2006
16 Lime Street	Boston	MA	6/1/2005

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204 Clinton Road	Brookline	MA	9/8/2006
114 Farlow Road	Newton	MA	8/31/2005
96 Appleton Street, #3	Boston	MA	6/1/2005
342 Warren Street	Brookline	MA	4/6/2006
112 Pinckney St., #24	Boston	MA	1/22/2006
246 Commonwealth Ave.	Boston	MA	2/11/2006
16 West Cedar Street	Boston	MA	10/31/2005
429 Summer Street	Westwood	MA	8/3/2007
129 Farlow Road	Newton	MA	7/31/2006
17 Manchester Road	Brookline	MA	6/1/2005
47 Lawrence Road	Chestnut Hill	MA	6/27/2006
89 Ash Street	Weston	MA	6/1/2005
148 Mt. Vernon Street	Boston	MA	9/29/2005
160 Beacon Street, #2	Boston	MA	8/28/2006
13 Temple Street	Boston	MA	7/9/2007
9 St. Charles Street	Boston	MA	5/31/2006
5 Hubbard Park Road	Cambridge	MA	12/29/2005
12 Fairmount Street	Brookline	MA	6/27/2006
90 Beacon Street	Boston	MA	1/27/2006
30 Hancock Street	Boston	MA	8/28/2006
57 Marlborough St., #1	Boston	MA	5/31/2006
20 Larchwood Drive	Cambridge	MA	11/7/2005

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13 Old Colony Road	Weston	MA	9/27/2006
33 Beaver Street	Boston	MA	6/1/2005
45 Cliff Road	Wellesley	MA	6/1/2005
27 Commonwealth Ave.	Boston	MA	11/17/2006
2 Gridiron Way	East Sandwich	MA	12/15/2006
341 Standish Street	Duxbury	MA	2/24/2006
11 Ledgewood Road	Winchester	MA	11/7/2005
1016 Center Street	Newton	MA	11/14/2005
17 Chestnut Street	Boston	MA	5/31/2007
262 Otis Street	West Newton	MA	8/29/2005
33 Tabor Hill Road	Lincoln	MA	2/11/2006
1 Dana Place	Cambridge	MA	9/26/2006
50 Glenoe Road	Chestnut Hill	MA	3/31/2006
301 Otis Street	Newton	MA	6/1/2005
30 Cedar Road	Chestnut Hill	MA	8/1/2005
286 Warren Street	Brookline	MA	8/30/2005
27 Commonwealth Ave.	Boston	MA	11/15/2006
183 Ridgeway Road	Weston	MA	12/11/2006
371 Walnut Street	Brookline	MA	2/23/2006
115 Brook Street	Wellesley	MA	8/21/2006
8A Walnut Street	Boston	MA	6/1/2005
36 Irving Street	Boston	MA	11/18/2005

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21 Essex Street	Brookline	MA	6/1/2005
88 Essex Road	Chestnut Hill	MA	6/1/2005
85 Prince Street	Newton	MA	6/1/2005
16 Charles Street Sq.	Boston	MA	1/27/2006
427 Beacon Street	Boston	MA	11/7/2005
41 Bedford Road	Lincoln	MA	9/28/2005
76 Stevens Road	Needham	MA	3/3/2006
54 Highland Street	Cambridge	MA	6/1/2005
26 Holyoke Street	Boston	MA	8/17/2005
649 Wellesley Street	Weston	MA	11/2/2005

24. Each of the properties on the Target Housing List was owned by an entity with legal title to its respective unit.

25. According to statements and documents provided by the Respondent, at the time of the violations herein alleged, the properties on the Target Housing List consisted of residential real property on which there was situated a building used as the home or residence for one or more persons.

26. According to statements and documents provided by the Respondent, at the time of the violations herein alleged, all of the properties on the Target Housing List, were residential dwellings as defined by TSCA Section 401(14), 15 U.S.C. § 2681(14), and 40 C.F.R. § 745.103.

27. According to statements and documents provided by the Respondent, all of the properties on the Target Housing List were constructed prior to 1978.

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28. According to statements and documents provided by the Respondent, none of the properties on the Target Housing List are, and, at the time of the violations alleged herein were, “housing for the elderly” or housing for persons with disabilities, as defined by 40 C.F.R. § 745.103.

29. According to statements and documents provided by the Respondent, none of the properties on the Target Housing List are and, at the time of the violations alleged herein, were, a “0-bedroom dwellings,” as defined by 40 C.F.R. § 745.103.

30. According to statements and documents provided by the Respondent, at all times relevant to the violations alleged herein, the properties on the Target Housing List were “target housing,” as that term is defined in TSCA Section 401(17), 15 U.S.C. § 2681(17), and in 40 C.F.R. § 745.103.

31. According to statements and documents provided by the Respondent, the activities that the Respondent performed for the properties on the Target Housing List were “renovation” activities, within the meaning and definition of that term as set forth at 40 C.F.R. § 745.83.

32. According to statements and documents provided by the Respondent, none of Respondent’s renovation activities at the properties on the Target Housing List were undertaken as emergency renovation operations, as that term is defined by 40 C.F.R. § 745.83.

33. According to statements and documents provided by the Respondent, the Respondent received monetary compensation for the renovation activities that it performed on the properties on the Target Housing List, pursuant to the contractor agreements between the

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Respondent and owners and/or occupants of the residences.

34. According to statements and documents provided by the Respondent, M.F. Reynolds performed renovations for compensation at the properties on the Target Housing List and was a "renovator" of properties on the Target Housing List, as that term is defined at 40 C.F.R. § 745.83.

35. According to statements and documents provided by the Respondent, the renovation activities that the Respondent performed at and in properties on the Target Housing List, did not constitute: (a) minor repairs and maintenance activities that disrupted 2 square feet or less of painted surface per component; (b) emergency renovation operations; or (c) renovations in which a written determination has been made by an inspector (certified pursuant to either 40 C.F.R. § 745.226 or a State or Tribal certification program authorized pursuant to 40 C.F.R. § 745.324) that the components affected by the renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight, as those activities are described in 40 C.F.R. § 745.82.

VI. VIOLATIONS

COUNT 1

**Failure to Provide Property Owners
With Lead Hazard Information Pamphlet**

36. The allegations contained in Paragraphs 1 through 35 of this Complaint are incorporated by reference herein as though fully set forth at length.

37. Forty C.F.R. § 745.85(a)(1) requires that no more than 60 days before beginning

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renovation activities in any residential dwelling unit of target housing, the renovator shall provide the owner of the unit with a full and complete copy of the EPA lead hazard information pamphlet developed under Section 406(a) of TSCA (the "EPA pamphlet"), or any State or Tribal pamphlet approved by EPA pursuant to 40 C.F.R. § 745.326 that is developed for the same purpose ("State or Tribal pamphlet"), and either: (i) obtain, from the owner, a written acknowledgment that the owner occupant has received the pamphlet; or (ii) obtain a certificate of mailing at least 7 days prior to the renovation.

38. Respondent failed to provide a copy of the EPA pamphlet, or any State or Tribal pamphlet, on 121 occasions, to the owners of the properties on the Target Housing List or to any adult occupant of the properties on the Target Housing List at any time before Respondent began renovation activities at the addresses listed on the Target Housing List, as required pursuant to 40 C.F.R. § 745.85(a)(1).

39. Respondent failed to obtain from any of the 121 owners of property on the Target Housing List a written acknowledgment, in accordance with 40 C.F.R. §§ 745.85(c) and 745.88(a)(1), that such target housing owner ever received from the Respondent a copy of the EPA pamphlet or any State or Tribal pamphlet prior to the start of the renovation, in violation of 40 C.F.R. § 745.85(a)(1)(i).

40. Respondent failed to obtain, at least 7 days prior to initiating renovation activities at the 121 properties on the Target Housing List, certificates of mailing the EPA pamphlet or any State or Tribal pamphlet, in violation of 40 C.F.R. § 745.85(a)(1)(ii).

41. Pursuant to 40 C.F.R. §§ 745.87(a) and (d), Respondent's failure to: (a) provide a

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copy of the EPA pamphlet or any State or Tribal pamphlet to 121 owners of target housing; (b) obtain a written acknowledgment that the owners received the pamphlet; and (c) obtain certificates of mailing on 121 occasions, constitutes 121 violations of 40 C.F.R. § 745.85(a)(1) and TSCA Section 409, 15 U.S.C. § 2689, that subjects the Respondent to civil penalties pursuant to TSCA Section 16, 15 U.S.C. § 2615.

VII. PROPOSED PENALTY AMOUNT

42. Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1), provides that any person who violates a provision of TSCA Section 409, 15 U.S.C. § 2689, shall be liable to the United States for a civil penalty in an amount not to exceed \$25,000 for each such violation. This maximum civil penalty amount has been adjusted upward, to \$27,500 per violation, for violations occurring between July 28, 1997, and March 15, 2004, and to \$32,500 per violation for violations occurring after March 15, 2004, under the *Civil Monetary Penalty Inflation Adjustment Rule*, 40 C.F.R. Part 19.

43. In determining the amount of any penalty to be assessed, Section 16 of TSCA, 15 U.S.C. § 2615, requires the Complainant to consider the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, the effect of the proposed penalty on the ability of the violator to continue to do business, any history of prior such violations, the degree of culpability of the violator, and such other matters as justice may require. To assess a penalty for the violations alleged in this Complaint, Complainant will take into account the particular facts and circumstances of this case with specific reference to EPA's

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March 10, 1980 *Guidelines for the Assessment of Civil Penalties Under Section 16 of the Toxic Substances Control Act; PCB Penalty Policy*, as published in the Federal Register at 45 Fed. Reg. 59770 (September 10, 1980) (hereinafter, "TSCA Civil Penalty Guidelines") (a copy is enclosed with this Complaint). In the absence of regulation-specific penalty assessment guidance, the TSCA Civil Penalty Guidelines set forth a general penalty assessment policy by establishing "standardized definitions and applications of the statutory factors that the [Toxic Substances Control] Act requires the Administrator to consider in assessing a penalty." 45 Fed. Reg. at 59770. This policy provides a rational, consistent, and equitable calculation methodology for applying the statutory penalty factors enumerated above to particular cases.

44. By this Complaint, Complainant seeks to assess civil penalties of up to the statutory maximum of \$32,500 per violation against the Respondents for 121 violations of TSCA Section 409, 15 U.S.C. § 2689 and the Pre-Renovation Rule. EPA considers such violations to be serious because a renovator's failure to provide an EPA-approved lead hazard information pamphlet to owners and occupants of target housing has a high probability of impairing an owner or occupant's ability to properly assess information regarding the risks associated with exposure to lead-based paint and/or lead-based paint hazards and to take proper precautions during a renovation. The pamphlet describes the hazards associated with lead-based paint and provides information about how owners and occupants can protect themselves against potential lead exposure. The pamphlet also explains that lead exposure is especially harmful to young children and pregnant women. In the instant case, Reynolds failed to provide the EPA pamphlet both before and after EPA sent Reynolds information regarding the importance of providing the

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pamphlet to owners and occupants of target housing.

VIII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

45. As provided by Section 16(2)(A) of TSCA, 15 U.S.C. § 2615(2)(A), and in accordance with 40 C.F.R. § 22.14, Respondent has a right to request a hearing on any material fact alleged in this Complaint, or on the appropriateness of the proposed penalty. Any such hearing would be conducted in accordance with 40 C.F.R. Part 22. **A request for a hearing must be incorporated in a written answer filed with the Regional Hearing Clerk within thirty (30) days of receipt of this Complaint.** In its answer, Respondent may contest any material fact contained in the Complaint. The answer shall directly admit, deny, or explain each of the factual allegations contained in the Complaint and shall state: (1) the circumstances or arguments alleged to constitute the grounds of defense; (2) the facts Respondent intends to place at issue; and, (3) whether a hearing is requested. Where Respondent has no knowledge as to a particular factual allegation and so states, the allegation is deemed denied. Any failure of Respondent to admit, deny, or explain any material fact contained in the Complaint constitutes an admission of that allegation.

IX. DEFAULT ORDER

46. If Respondent fails to file a timely answer to the Complaint, Respondent may be found to be in default pursuant to 40 C.F.R. § 22.17. For purposes of this action only, default by Respondent constitutes an admission of all facts alleged in the Complaint and a waiver of

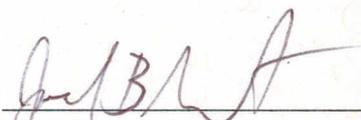
In the Matter of: M.F. Reynolds, Inc.
Docket No. TSCA-01-2008-0053

Respondent's right to contest such factual allegations under Section 16(2)(A) of TSCA,
15 U.S.C. § 2615(2)(A).

X. SETTLEMENT CONFERENCE

47. Whether or not a hearing is requested upon filing an answer, Respondent may confer informally with the EPA concerning the alleged violations. Such conference provides Respondent with an opportunity to provide whatever additional information may be relevant to the disposition of this matter. Any settlement shall be made final by the issuance of a written Consent Agreement and Final Order by the Regional Judicial Officer, EPA Region I. The issuance of such a Consent Agreement shall constitute a waiver of Respondent's right to a hearing on any issues of law, fact, or discretion included in the Agreement.

48. Please note that a request for an informal settlement conference does not extend the period within which a written answer must be submitted in order to avoid default. To explore the possibility of settlement in this matter, Respondent should contact Steven Schlang, Senior Enforcement Counsel, Office of Environmental Stewardship, EPA Region I, at the address cited above or at (617) 918-1773. Steven Schlang has been designated to represent Complainant and receive service in this action.



Joel Blumstein
Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency
EPA Region 1

3/31/08
Date